



Medicare Levy Amendment (National Disability Insurance Scheme Funding) Bill 2017 and related bills

Submission by Queensland Advocacy Incorporated

Economics Legislation Committee

"I am neither an optimist nor pessimist, but a possibilist."

Max Lerner

A well-funded and sustained NDIS can be a possibilist

September 2017

About Queensland Advocacy Incorporated

Queensland Advocacy Incorporated (QAI) is an independent, community-based systems and individual advocacy organisation and a community legal service for people with disability. Our mission is to promote, protect and defend, through systems and individual advocacy, the fundamental needs and rights and lives of the most vulnerable people with disability in Queensland.

QAI has an exemplary track record of effective systems advocacy, with thirty years' experience advocating for systems change, through campaigns directed to attitudinal, law and policy reform and by supporting the development of a range of advocacy initiatives in this state. We have provided, for almost a decade, highly in-demand individual advocacy through our individual advocacy services – the Human Rights Legal Service, the Mental Health Legal Service and the Justice Support Program and more recently through our NDIS Appeals Support Program. Our expertise in providing legal and advocacy services and support for individuals within these programs has provided us with a wealth of knowledge and understanding about the challenges, issues, needs and concerns of individuals who are the focus of this inquiry.

QAI deems that all humans are equally important, unique and of intrinsic value and that all people should be seen and valued, first and foremost, as a whole person. Further, QAI believes that all communities should embrace difference and diversity, rather than aspiring to an ideal of uniformity of appearance and behaviour. Central to this, and consistent with our core values and beliefs, QAI will not perpetuate use of language that stereotypes or makes projections based on a particular feature or attribute of a person or detracts from the worth and status of a person with disability. We consider that the use of appropriate language and discourse is fundamental to protecting the rights and dignity, and elevating the status, of people with disability.

QAI's recommendations

QAI offers the following recommendations:

QAI submits that:

1. The Medicare levy increase should be approved.
2. The NDIS must remain a social insurance scheme, not a welfare system.
3. The NDIS Savings Fund Special Account must be held accountable to stringent standards.
4. Measures offering robust protection of current income support and welfare for people with disabilities and their carers must be introduced.
5. The Government must develop an action plan to ensure the long-term sustainability of NDIS funding, in a way which does not adversely impact on vulnerable people.

Background

On 17 August 2017, the Senate referred the Medicare Levy Amendment (National Disability Insurance Scheme Funding) Bill 2017 and 10 related bills to the Economics Legislation Committee for inquiry. The 10 related bills are:

- Fringe Benefits Tax Amendment (National Disability Insurance Scheme Funding) Bill 2017
- Income Tax Rates Amendment (National Disability Insurance Scheme Funding) Bill 2017
- Superannuation (Excess Non-Concessional Contributions Tax) Amendment (National Disability Insurance Scheme Funding) Bill 2017
- Superannuation (Excess Untaxed Roll-Over Amounts Tax) Amendment (National Disability Insurance Scheme Funding) Bill 2017
- Income Tax (TFN Withholding Tax (ESS)) Amendment (National Disability Insurance Scheme Funding) Bill 2017
- Family Trust Distribution Tax (Primary Liability) Amendment (National Disability Insurance Scheme Funding) Bill 2017
- Taxation (Trustee Beneficiary Non-Disclosure Tax) (No. 1) Amendment (National Disability Insurance Scheme Funding) Bill 2017
- Taxation (Trustee Beneficiary Non-Disclosure Tax) (No. 2) Amendment (National Disability Insurance Scheme Funding) Bill 2017
- Treasury Laws Amendment (Untainting Tax) (National Disability Insurance Scheme Funding) Bill 2017
- Nation-building Funds Repeal (National Disability Insurance Scheme Funding) Bill 2017

Proposed reforms

The amending bills propose to reform each piece of relevant legislation by increasing the Medicare levy from 2 per cent to 2.5 per cent of a person's taxable income. The rationale for this increase is to fund the Commonwealth's contribution to the National Disability Insurance Scheme (NDIS).

In the Second Reading speech, the Minister for Social Services noted that these reforms will result in a revenue gain of \$8,200 million over the period from 2018-2021.

QAI's submissions

Protection of NDIS principles

The NDIS model has been recognised to represent a significant departure from the traditional welfare model approach to funding supports and services for people with disabilities.

As the NDIS Statement of Opportunity and Intent explains:¹

The NDIS is not another government-controlled social welfare scheme. It is underpinned by a new national consumer-controlled marketplace with enormous growth potential. It is based upon individual commissioning, where eligible people with disability can use their NDIS plans to choose those supports and services that best help them achieve their specific life goals.

This individually commissioned market for disability services harnesses the power of the market to achieve better outcomes for people with disability.

Through the NDIS, the disability sector is transitioning from a welfare-based system where suppliers of disability supports and services are funded by the Government, to a market-based system where eligible people with disability are funded by the Government to choose their disability supports and services.

The NDIS is a social insurance scheme, not a welfare system. This has been heralded as a transformational approach to disability supports and services that is resulting in a renovated market for disability supports and services. This vision of the NDIS is consistent with, and responsive to, Australia's obligations under the *Convention on the Rights of Persons with Disabilities* (CRPD).

QAI is concerned that safeguards must be put in place to ensure that the NDIS is not transmuted into a quasi-welfare measure. This is important in protecting the core component of the vision of the NDIS, elevating the status of people with disability and empowering them as active market participants, rather than designating them as passive consumers in need of charitable assistance. It is also important in guarding the NDIS against unnecessary financial insecurity, which welfare measures are, being vulnerable to the whims of the political party of the day for their financial viability.

To date the community has been largely supportive of the NDIS and recognises that disability is part of the human condition and acknowledges that increases to the Medicare Levy is the most equitable means of funding this initiative. It is important to retain and publicly reinforce community endorsement of this means of funding the NDIS. An increase to an existing tax that already enjoys strong public support strengthens everyone's sense of ownership of the NDIS. A universal tax increment is consistent with the Productivity Commission's vision of the NDIS as an insurance scheme underpinned by risk shifting and risk distribution.

¹ NDIS Market Approach - Statement of Opportunity and Intent. November 2016,

The NDIS Savings Fund Special account

It is proposed that one-fifth of the revenue raised by the Medicare levy from 1 July 2019 will be credited to the NDIS Savings Fund Special Account, building on the Commonwealth's share of the DisabilityCare Australia Fund, repurposed disability-related expenditure and other credits to the NDIS Savings Fund Special Account to ensure that the Commonwealth's NDIS contribution is fully funded.²

QAI made a written submission to the inquiry into the establishment of the NDIS Savings Fund Special Account, and appeared at the Public Hearing for this inquiry on 14 November 2016. In both our written and oral submissions, we voiced our concerns about the establishment of this fund and, in particular, with the associated welfare cuts creating its revenue base. We took the position, which we maintain, that we do not support the approach of addressing shortfalls in the Commonwealth's allocated NDIS funding by decreasing other forms of social welfare funding. We expressed our concerns that the political fighting over whether the current Federal Government inherited an NDIS funding shortfall was to the detriment of the most vulnerable Australians.

QAI remains concerned by the way in which this fund operates, and the means by which it is resourced. We therefore hold significant concerns about the proposal to credit one-fifth of the revenue raised by the Medicare levy to this account and call for greater openness and transparency by the Government with respect to the way in which this fund operates, how the funds are used and allocated and where the remaining four-fifth of the Medicare levy is being directed. We are not satisfied by the following explanation provided by the Minister for Social Services in the second reading speech:³

Following this increase in the Medicare levy rate, one-fifth of the revenue raised by the Medicare levy will be credited to the NDIS Savings Fund Special Account. The NDIS Savings Fund Special Account will also hold NDIS underspends, selected saves across the government, and uncommitted funds from the Building Australia Fund and the Education Investment Fund, putting all that money into a lockbox for people with disabilities so never again can there be any questions that the NDIS is not fully funded. Along with the Commonwealth's share of the Disability Care Australia Fund and the repurposing of existing Commonwealth disability-related expenditure, all this meets the Commonwealth's contribution to the NDIS.

QAI is extremely concerned about where the "repurposed existing Commonwealth disability-related savings" is coming from. Our concerns in this regard are heightened given that the Minister for Social Services has responsibility for both policy and management of the special account, and therefore has unfettered discretion with respect to allocations of payments from this account. QAI has previously expressed our concerns about this. Giving the Minister full power and control over the operation of the Savings Fund Special Account fetters the NDIA's power and independence whilst at the same time giving power to the Minister to determine how funds under the NDIS are to be allocated. It also limits the NDIA's ability to engage in

² Second Reading Speech, [1.5].

³ Second Reading Speech, 3.

future planning for the scheme, whilst enhancing the Minister's relative power. The Bill therefore introduces ad hoc and discretionary considerations into the funding of the NDIS that are outside the scope of the bilateral funding agreements entered into by the Commonwealth and State governments. In addition to these concerns, we assert that it is inappropriate to withhold one-fifth of funds allocated to support people with disabilities through the NDIS as a reserve that can be held in perpetuity. This is especially counter-productive to the purpose of the NDIS when PLAN issues and related funding for NDIS packages are resulting in a significant number of participants being disadvantaged.

QAI calls for robust protection of current welfare measures for people with disabilities and their carers, which are already inadequate to meet the needs of many.

Need for long-term sustainability in NDIS funding

We note with concern that the political fighting over funding for the NDIS continues, with the Government maintaining their position that there is a significant shortfall in NDIS funding. In the second reading speech for the current raft of proposed legislative amendments, the Minister for Social Services claims that when Labor lost Government in 2013, they left a \$55.7 billion funding shortfall for the NDIS. It is said that the Medicare Levy surcharge increase is targeted at addressing this alleged shortfall.

As noted above, it is vital that the NDIS continues to be funded as a social insurance scheme and does not become part of welfare funding that is then subject to the whims of the political party of the day. The NDIS must not become the focus of an ongoing political battle each budget cycle. Rather the Government should take leadership and introduce sustainable measures that will ensure the financial viability of the NDIS into the future.

QAI supports an innovative and creative approach to funding which considers ways the Commonwealth can deliver on its funding commitment without increasing the vulnerability and poverty of already socio-economically disadvantaged Australians. For example, within the disabilities sector, there is Government-owned infrastructure that will become redundant as people with disability move to community living. The sale of these assets would be a symbolic way for the Government to both honour its funding commitment and support the move towards inclusivity and community integration of people with disability that it has committed to by signing and ratifying international human rights treaties, including the *Convention on the Rights of Persons with Disabilities*. This is a far more sustainable, appropriate and humane approach than pitting one vulnerable group against another in a battle for already insufficient social welfare funding.

Additionally, or alternately, QAI considers that the proposal advanced by the Opposition for the Government to abandon its planned corporate tax cuts and to extend the temporary deficit levy on high-income earners has merit.

Conclusion

QAI thanks the Committee for the opportunity to make a submission to this inquiry.